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UNITED STATES OF AMERICA,
Plaintiffs,
v.
HENRY MULLER,
Defendants.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. 23-cr-00210-EMC-1

PRETRIAL ORDER FOR
CRIMINAL JURY TRIAL AND
BRIEFING SCHEDULE

Good cause appearing, it is hereby ordered that:

1. TRIAL DATE

a. Jury trial is scheduled for February 18, 2025 at 8:30 a.m. in Courtroom 5, 17th Floor, 450 Golden Gate Avenue, San Francisco, California. Typical court day for trial is 8:30 a.m. to 1:30 p.m.; **Thursdays** are dark.

b. The length of trial is expected to last not more than **6 Court days**.

2. DISCOVERY

Both sides will comply with the Federal Rules of Criminal Procedure and Criminal Local Rule 16-1. The United States will comply with *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972) and *United States v. Agurs*, 427 U.S. 97 (1976).

3. MOTIONS

a. Pretrial motions (including motions *in limine*) shall be noticed and set for hearing on **1/21/2025, at 3:30 p.m.** Motions *in limine* and other pre-trial motions shall be filed with the Court by 12/31/2024; responses are due 1/7/2025. The briefing schedule for all motions shall comply with Criminal Local Rule 47-2.

b. All disclosures under Rule 16 (including expert summaries) and Criminal Local Rule 16-1(c) shall be made no later than 12/10/2024.

1 4. PRETRIAL CONFERENCE

2 a. A pretrial conference will be held on **1/21/2025, at 3:30 p.m.** The
3 attorneys who will try the case shall attend the conference and be prepared to discuss the matters
4 set forth in Criminal Local Rule 17.1-1.

5 b. Not less than three (3) weeks before the Pretrial Conference, the parties
6 shall, consistent with defendant's right to an effective defense, complete the following:

- 7 (1) Serve and file a pretrial statement pursuant to Crim. L.R. 17.1-1(b).
- 8 (2) Serve and file a trial brief setting forth the following:
 - 9 (a) A description of each offense charged in the case.
 - 10 (b) A description of all of the relevant facts upon which the
11 parties stipulate.
 - 12 (c) A brief description of the law applicable to each alleged
13 offense, including, but not limited to, a listing of the
14 elements of each alleged offense and affirmative defense and
15 any instructions that the Court should consider in reaching a
16 decision in the case.
 - 17 (d) Points of law on any other issues relevant to the trial,
18 including all foreseeable procedural and evidentiary issues.
- 19 (3) Serve and file a joint exhibit list in tabular form, with (a) a column
20 that briefly describes the exhibit; (b) a column that describes for
21 what purpose the party will offer the exhibit and identifies its
22 sponsoring witness; (c) a column that states any objections to the
23 exhibit and the basis therefor; (d) a column that briefly responds to
24 the objections; and (e) a blank column for the Court's use. Before
25 this list is filed with the Court, the parties shall meet and confer, in
26 person, to consider exhibit numbers, to eliminate duplicate exhibits
27 and confusion over exhibits, and to make a good faith effort to
28 stipulate to admissibility. If stipulation is not possible, the parties

- 1 shall make every effort to stipulate to authenticity and foundation
2 absent a legitimate (not tactical) objection.
- 3 (4) Serve and file a list of the witnesses that each party intends to call at
4 the trial in its case-in-chief, not including rebuttal witnesses, briefly
5 setting forth for each witness the substance of their testimony.
- 6 (5) Exchange exhibits, which shall be pre-marked (plaintiff shall use
7 numbers; defendant shall use non-duplicative consecutive numbers
8 as agreed in advance) and tabbed. Please contact Courtroom Deputy
9 for correct numbering and naming of exhibits.
- 10 (6) Deliver two (2) USBs of all pre-marked exhibits to chambers
11 (exhibits are not to be filed). For questions regarding the correct
12 numbering and naming of Trial Exhibits and any other questions
13 regarding Trial Exhibits, please contact the Courtroom Deputy. The
14 Courtroom Deputy will schedule an in-person Trial Technology
15 Check one to two weeks prior to trial.
- 16 (7) Serve and file proposed jury instructions on all substantive issues
17 and on any procedural issue not adequately covered by the Court's
18 standard instructions (i.e. the current version of the Ninth Circuit
19 Manual of Model Criminal Jury Instructions (also available on the
20 Ninth Circuit website at www.ce9.uscourts.gov) shall be given
21 absent objection: 1.1-1.11, 1.16, 2.1, 2.12, 3.1-3.2, 3.5-3.9, 7.1-7.6.
- 22 (a) Any instruction contained in the Ninth Circuit Model
23 Instructions Manual may be requested by designation of its
24 number.
- 25 (b) Each other instruction shall be requested by setting forth the
26 instruction in full text on a separate sheet with reference to
27 supporting legal authority.
- 28 (c) Prior to filing the proposed instructions, the parties shall

meet and confer and work in good faith towards a stipulated set of instructions. If a full agreement is not reached, the parties shall enumerate the instructions on which an agreement is reached and then list separately the additional instructions proposed by each party.

(8) Serve and lodge a proposed form of verdict and proposed questions for jury voir dire. Voir dire questions not agreed to shall be listed separately.

(9) All stipulation of fact to eliminate the need for live witnesses on undisputed matters.

c. Not less than **two (2) weeks** prior to the Pretrial Conference, the parties shall:

(1) Serve and file any formal objections (and the basis therefor) to the opposing party's witnesses.

d. No party shall be permitted to call any witness or offer any exhibit in their case in chief that is not disclosed pursuant to this Pretrial Order, without leave of Court for good cause shown, consistent with defendant's right to an effective defense.

e. All motions *in limine* shall be heard at the Pretrial Conference.

5. CHALLENGES

The procedure for exercising peremptory challenges in Criminal Local Rules 24-2 and 24-3 will be observed absent objection by the parties.

6. COPIES

Each document filed or lodged with the Court must be accompanied by a copy for use in the Judge's chambers.

7. CHANGE OF PLEA

Counsel shall give prompt notice to the United States Attorney and to the Court of any intention to change a previously entered not guilty plea. A written plea agreement must be submitted at least one (1) day in advance of the plea.

1 8. Jury instructions, proposed form of verdict, and requested voir dire shall also be
2 submitted to Chambers in Word format on a CD.

3 || Dated: November 14, 2024


EDWARD M. CHEN
United States District Judge

United States District Court
Northern District of California

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2 Juror Questionnaire
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1. Name
 2. City of residence
 3. Occupational status.
 4. Educational background.
 5. Organizations.
 6. Hobbies.
 7. Marital status.
 8. Spouse's occupation.
 9. Children (including ages).
 10. If a juror on another case.
 11. If ever a grand juror.
 12. If ever in the military.